

II. OFFICE ACTION OBJECTIONS

A. Objections to the Applicants' Oath or Declaration

The Office Action Summary objects to the Applicants' oath or declaration. However, the Office Action itself does not object to the Applicants' oath, nor does it describe the nature or reasons for the objection. The Applicants respectfully request that the Examiner withdraw the objection or indicate the nature and reasons for the objection.

III. THE CITED REFERENCES AND THE SUBJECT INVENTION

A. The Cookson Reference

U.S. Patent No. 5,598,276, issued to Cookson et al. on January 28, 1997, discloses a system and method for controlling play of multiple versions of the same motion picture stored on an optical disk.

The Cookson reference system addresses the problem of playing back a single optical disk with PG-rated and R-rated versions of the same motion picture. To minimize the redundant storage of data, three types of video data blocks are provided in the same track, in an interleaved fashion. These include A-type blocks, which contain material unique to version A of the movie; B-type blocks, which contain material unique to version B of the movie; and C-type blocks, which contain material common to both. A series of codes and pointers included in each block allow play of all common blocks, play of all A or B blocks, depending upon which version has been selected, and skipping over blocks which contain data unique to the unselected version. Play of adult-rated versions is automatically prevented if a parental lock option in the player has been keyed on. The disk may contain special software for identifying multiple versions of the same material where the selection criterion is other than a rating.

B. The Fuller Reference

U.S. Patent No. 5,767,894, issued to Fuller et al. on June 16, 1998, discloses a video distribution system. The system describes an interactive video system for enabling store and

forward distribution of video programming comprising merged graphics and video data from a minimum of two separate data storage devices.

C. The Fielding Disclosure

The "Hypertext Transfer Protocol -- HTTP/1.1" disclosure is a document specifying an Internet standards track protocol for the Internet community.

D. The Subject Invention

The Applicants' invention addresses the problems associated with providing a streaming protocol with multiple versions. When a data segment is transmitted as a data stream, a first stream of data that is in accordance with a first version of the protocol is transmitted, with additional streams of data that are in accordance with subsequent versions of the protocol appended in sequence to the first stream of data. A write module that transmits the data stream appends all such streams of data up to and including the stream of data that is in accordance with the version of the streaming protocol implemented by the write module.

At the receiving end, a read module receives the first stream of data, as well as each additional stream of data up to and including that which is in accordance with the version of the protocol that is implemented by the read module. If the end of the data segment is detected prior to receiving all of the data expected by the read module (indicating that the version of the write module was earlier than that of the read module), the read module will detect this and handle the prior version of the data segment accordingly. Moreover, if the end of the data segment is not detected after receiving all of the data expected by the read module (indicating that the version of the write module was later than that of the read module), any remaining data in the data segment is disregarded. Consequently, forward and backward compatibility between streaming protocol versions is concurrently supported.

E. Differences Between the Subject Invention and the Cited References

The Cookson reference is directed to a system that allows playback of multiple blocks of data that differ in *data content*. This is entirely different from the Applicants' invention, which allows the transmission and reception of data streams that differ in *protocol*.

The system described in the Cookson reference is incapable of handling data blocks with different protocols. Instead, the Cookson reference discloses a single protocol (which includes a series of codes and pointers provided in each block) which is used throughout. Further, nothing in the Cookson reference discloses the technique described and claimed by the Applicants' invention, namely, sequentially appending additional streams of data to the first stream of data according to each subsequent version of the streaming protocol up to and including the selected version when the selected version of the streaming protocol is not the first version of the streaming protocol.

The Fuller and Fielding references are even more remote from the Applicants' invention.

IV. OFFICE ACTION REJECTIONS

A. Rejection of Claims 1-6, 11, 12, and 13-30

In paragraph 3, the Office Action rejected claims 1-6, 11, 12, and 13-30 under 35 U.S.C. § 102 as unpatentable over the Cookson reference. The Applicants respectfully traverse these rejections, and assert that claims 1-6, 11, 12, and 13-30 are patentable over the Cookson reference, and all references of record.

1. Rejection of Claim 1

In paragraph 3, the Office Action rejects claim 1 under 35 U.S.C. § 102 as unpatentable over the Cookson reference. According to the Office Action, Cookson discloses a method of transmitting a data segment in a stream using a write module of the type which implements a selected one of a plurality of versions of a streaming protocol.

However, this is not the case. The Cookson reference, and in particular, the portion of this reference cited by the Office Action, recites a system in which multiple versions of the same

motion picture can be stored on the same software carrier. The Cookson reference therefore discloses a system which handles data blocks differing in *data content*. This is quite different from the Applicants' invention, which discloses and claims a system and method for handling data streams which comply with different *protocols*. In fact, the Cookson reference could not function if the data segments did not conform to a single protocol.

According to the Office Action, the Cookson reference also discloses sequentially appending additional streams of data to a first stream according to each subsequent version of the stream protocol.

However, the Cookson reference (col. 2 lines 34-42) does not disclose or teach the use of separate protocols, or the Applicants' technique of dealing with data blocks of different protocols (i.e., sequentially appending additional streams of data to the first stream of data according to each subsequent version of the streaming protocol up to and including the selected version when the selected version of the streaming protocol is not the first version of the streaming protocol). Accordingly, the Applicants traverse the rejection of claim 1, and respectfully request that claim 1 be allowed.

2. Rejection of Claims 2-6

The Office Action also rejects claims 2-6 under 35 U.S.C. § 102 as unpatentable over the Cookson reference. The Applicants traverse this rejection as well.

First, claims 2-6 include all the limitations of patentable claim 1, and are therefore patentable over the Cookson reference on this basis alone.

In addition, dependent claims 2-6 include additional limitations which render the Applicants' invention even more remote from the cited reference.

With respect to claim 2, the Office Action asserts that the VCR decoder depicted in Fig. 2 of the Cookson reference discloses the step of receiving the data segment from a data stream using a read module of the type which implements a second selected one of the plurality of versions of the steaming protocol. However, as described above, this is not the case. The system

described in the Cookson reference is fundamentally incompatible with different data stream protocols.

The Office Action also asserts that the Cookson reference discloses receiving additional stream data according to each subsequent version of the streaming protocol. However, the cited portion of the Cookson reference does not disclose receiving data streams with different protocols, nor does it disclose receiving additional streams of data according to subsequent versions of the streaming protocol. Instead, the Cookson reference discloses receiving data blocks with the same *protocol*, but different *content*. For these reasons, the Applicants respectfully traverse the rejection of claim 2.

Claims 3-6 also include limitations not found in the Cookson reference, and the Applicants respectfully traverse the rejection of these claims and request their allowance as well.

3. Rejection of Claim 11

In paragraph 3, the Office Action rejects claim 11 under 35 U.S.C. § 102 and the Cookson reference. The Office Action alleges that the Cookson reference discloses determining if the data segment is stored in a current context for the data stream, if so, transmitting an alias tag in lieu of the data segment, and if not, storing the data segment in the current context. The Office Action relies on a portion of the Cookson reference which describes that blocks contain pointer flags and pointers, and that a 00 pointer flag indicates that no pointer field will follow.

The Applicants respectfully traverse this rejection. First, claim 11 includes all of the limitations of claim 1, and is patentable on this basis alone. Second, the Cookson reference does not disclose determining whether the data segment is stored in a current context, nor does it disclose the storing of an alias tag. Context is not the same as content, nor is there any need for the notion of a “current” context in Cookson, since it does not handle multiple protocols. For the reasons described above, Applicants respectfully traverse this rejection and request allowance of claim 11.

4. Rejection of Claim 12

In paragraph 3 of the Office Action, claim 12 is rejected under 35 U.S.C. § 102 as unpatentable over the Cookson reference. The Office Action alleges that Cookson discloses a system which can handle a non-random access data stream because it discloses data stored on the disk in blocks at col. 2 line 44.

The Applicants respectfully traverse this rejection. First, claim 12 includes all of the limitations of claim 1, and is patentable on this basis alone. Second, the Applicants respectfully disagree that the Cookson reference discloses a system which can handle non-random access to data. Data stored in disks in blocks can certainly be randomly accessed. Accordingly, the Applicants respectfully disagree with the characterization of the Cookson reference request allowance of claim 12.

5. Rejection of Claims 13-30

In paragraph 3, the Office Action rejects claims 13-30 under the same rationale as the rejection of claims 1-6 and 11. For the foregoing reasons, the Applicants respectfully traverse this rejection as well, and request allowance of claims 13-30.

B. Rejection of Claims 7-10

In paragraph 4, claims 7-10 are rejected under 35 U.S.C. § 103 as being unpatentable the Cookson reference in view of the Fuller and Fielding references. The Applicants respectfully traverse these rejections and request allowance of these claims for the reasons described below.

1. Rejection of Claims 7 and 8

With respect to claims 7 and 8, the Office Action admits that the Cookson reference does not disclose or teach read or write modules on the same computer or on separate computers, but alleges that the Fuller reference, which discloses a computer video system, could be used to transmit video programming to a customer.

The Applicants respectfully traverse these rejections. First, dependent claims 7 and 8 incorporate all of the limitations of claims 2 and 1. As described above with respect to the Office Action's § 102 rejection, neither the Cookson reference nor the Fuller reference discloses a system capable of handling data streams with different protocols. Claims 7 and 8 are patentable on this basis alone, and the Applicants therefore respectfully traverse this rejection.

Second, the Applicants disagree that the Cookson and Fuller references can be combined in accordance with 35 U.S.C. § 103. The mere fact that it may have been within the capabilities of one skilled in the art to modify the teachings of one reference with another reference is not sufficient to establish a prima facie case of obviousness. MPEP § 2143.01. Further, any motivation to combine the references to arrive at the claimed invention must be found in the prior art, and not constructed in hindsight based on the Applicant's disclosure. MPEP § 2143.

The Office Action suggests that the combination of the Cookson and Fuller references would be motivated by a desire to provide the customer more choices to select different versions of the data stream, but provides no explanation as to why such a desire would lead one skilled in the art from the Cookson reference to the Fuller reference. The Office Action also claims that it is a mere design choice to select the data on a local hard disk or VCR or through a network on a separate machine. The Applicants respectfully disagree with this statement. The storage and retrieval of video data is a difficult undertaking for ordinary network systems, and the choice to do so locally or remotely over a network is hardly a simple matter of design choice. The Applicants respectfully suggest that the Cookson and Fuller references can only be combined with the aid of hindsight reconstruction. Accordingly, the Applicants respectfully traverse the rejection of claims 7 and 8, and request allowance of these claims.

2. Rejection of Claim 9

With respect to claim 9, the Office Action alleges that although the combination of Cookson and Fuller do not disclose delimiting the data segment in the data stream using beginning and ending tags, Fielding discloses the technique of using language and entity tags on data streams to verify its function.

The Applicants respectfully traverse this rejection for three reasons. First, dependent claim 9 includes all of the limitations of claim 1, and is patentable on this basis alone. Second, although the use of tags in messages is old in the art, the language and entity tags referred to in the Fielding reference are not analogous to the beginning and ending tags described in the Applicants' invention. Third, the Office Action has not made a *prima facie* case of obviousness because the Cookson and Fuller references are not combinable under 35 U.S.C. § 103. For the foregoing reasons, the Applicants respectfully traverse this rejection and request allowance of claim 9.

3. Rejection of Claim 10

With respect to claim 10, the Office Action alleges that the combination of the Cookson, Fielding, and Fuller references discloses having no additional tags in the data segment between the begin and the end tags. The Applicants respectfully traverse this rejection.

First, claim 10 incorporates all of the limitations claims 9 and 1 and is patentable on this basis alone.

Second, the absence of additional tags between the begin tag and the end tag is not disclosed in any of the cited references. The Office Action implies that the sync word in the Cookson reference is analogous to the beginning and end tags in the Applicants' invention. However, this is not the case. The sync word described in the Cookson reference is unique and does not occur anywhere in the data stream. However, even if the sync word alone were analogous to a beginning or an end tag (and it is not) it is not true that no additional words or tags can be embedded between sync words in the Cookson reference. In fact, the opposite is usually the case. Accordingly, claim 10 is patentable over the cited references on this basis as well and the Applicants request allowance of this claim.

V. CONCLUSION

In conclusion, independent claims 1, 13, 19, 24, and 28, 29, and 30 of the present application recite novel features which are not found in or suggested by the cited references. In

addition, claims 2-12, 14-18, 20-23, and 25-27 dependent thereon include additional novel features and are even more remote from the teachings of the cited references. Therefore, the Applicants respectfully request the allowance of the present application.

In view of the foregoing, it is submitted that this application is now in good order for allowance and such allowance is respectfully requested. Should the Examiner believe minor matters remain that can be resolved in a telephone interview, the Examiner is urged to call the Applicants' undersigned attorney.

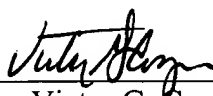
Respectfully submitted,

Mark E. Davis, et al.

By their attorneys,

GATES & COOPER
6701 Center Drive West, Suite 1050
Los Angeles, California 90045
(310) 642-4142

Dated: January 15, 1999

By: 

Victor G. Cooper
Reg. No. 39,641